



South Carolina House of Representatives

Legislative Update

Robert W. Harrell, Jr., Speaker of the House

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CONTENTS

HOUSE WEEK IN REVIEW	02
HOUSE COMMITTEE ACTION	05
BILLS INTRODUCED IN THE HOUSE THIS WEEK.....	10

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HOUSE WEEK IN REVIEW

The House of Representatives amended, approved, and sent to the Senate **H.4671**, a bill revising the authority and procedures of the **ADMINISTRATIVE LAW COURT'S DIVISION OF MOTOR VEHICLE HEARINGS**. The legislation authorizes the chief judge of the Administrative Law Court to promulgate rules governing practice and procedures before the Division of Motor Vehicle Hearings. These rules are subject to review by the South Carolina Supreme Court. In a division hearing regarding a driver's license suspension for driving with an unlawful alcohol concentration or for refusal to submit to testing, the legislation provides that any law enforcement agency that employs a breath test operator or an officer who requested a breath test resulting in a suspension is a party to the hearing and shall be served with appropriate notice, afforded the opportunity to request continuances and participate in the hearing, and be provided a copy of all orders issued in the action. Representatives of the Department of Motor Vehicles are not required to appear at implied consent, habitual offender, financial responsibility, or point suspension hearings. The legislation authorizes the Administrative Law Court's Division of Motor Vehicle Hearings to conduct all hearings or administrative hearings arising out of the actions of the Department of Motor Vehicles, including the denial, suspension, cancellation, or revocation of driver's licenses for habitual offenders and others. The bill allows an individual to file with the Division of Motor Vehicle Hearings a petition for the restoration of a driver's license after two years (rather than one year) from the time the Department of Motor Vehicles decided that the individual is a habitual offender and removed driving privileges. The bill provides that if a petition for judicial review of a final order of the Administrative Law Court is not filed, upon request of a party to the proceedings, the clerk of the Administrative Law Court must file a certified copy of the final order with a clerk of the circuit court or court of competent jurisdiction, as requested. After filing, the certified order has the same effect as a judgment of the court where filed and may be recorded, enforced, or satisfied in the same manner as a judgment of that court.

The House amended, approved, and sent to the Senate **H.4517**, a bill **AUTHORIZING THE ADMINISTRATIVE LAW COURT TO HEAR CONTESTED OCCUPATIONAL SAFETY AND HEALTH ACT CASES**. Current law provides that contested cases arising under the Occupational Safety and Health Act are not heard by an administrative law judge; **H.4517** deletes this particular exception so that such cases may be heard by an administrative law judge. All matters pending before the South Carolina Occupational Safety and Health Review Board on the effective date of this legislation must be transferred to the Administrative Law Court for adjudication, and the South Carolina Occupational Safety and Health Review Board shall no longer provide administrative review.

Within thirty days after receipt of a citation, notice of penalty, or notice of abatement issued by the Division of Labor, **H.4517** provides that any aggrieved party may request a contested case hearing before the Administrative Law Court. The parties to the contested case are the Division of Labor and any aggrieved employer, employee, or employee representative who requests a contested case hearing. Hearings must be conducted according to the rules of the Administrative Law Court. A party aggrieved by the decision of the Administrative Law Court may appeal the decision as provided in Section 1-23-380 and 1-23-61. An individual, partnership, corporation, or other business

entity is not required to be represented by an attorney when appearing in a contested case before the Administrative Law Court, but may appear by an officer or an employee.

The House approved **S.961**, pertaining to the **ISSUANCE OF A CORPORATE CERTIFICATE TO A PROPOSED MUNICIPALITY**, and enrolled the bill for ratification. The bill provides that the area seeking to be incorporated file a proposal for providing either directly or indirectly a substantially similar level of law enforcement services to the area's existing law enforcement coverage prior to seeking incorporation.

The House concurred in Senate amendments to **H.4594** and enrolled the bill for ratification. This bill provides that, for purposes of the nonrecognition of gain under Section 1031 of the Internal Revenue Code and comparable provisions of state law, the **CONVEYANCE BY TIMBER DEED OF THE RIGHT TO CUT STANDING TIMBER** for a period of time exceeding thirty years is considered a conveyance of a real property interest, and as such, under the laws of this State, is a like-kind exchange with other similar conveyances of a real property interest or with conveyances of similar investment real property owned in fee simple.

The House did not concur in Senate amendments to **S.1061**, a bill authorizing bonded indebtedness for the **SOUTH CAROLINA HERITAGE TRUST PROGRAM**, which is used to preserve areas of ecological or cultural importance. A conference committee was appointed to address the differences of the bodies. The legislation authorizes the governing board of the Department of Natural Resources, which serves as the trustee of the Heritage Trust, to issue bonds to acquire, restore, improve, and manage additional properties suitable for inclusion in the program. The debt is secured by a pledge of the revenues derived from the portion of the state deed recording fee dedicated to the Heritage Land Trust Fund.

The House amended, approved, and sent to the Senate **H.4687**, relating to **COMMUNITY SERVICES PROVIDED BY THE DEPARTMENT OF JUVENILE JUSTICE (DJJ)**. This bill provides that intensive supervision services are among the community-based programs DJJ provides and that DJJ must provide intensive supervision in all regions of the State. Juveniles must be assigned to intensive probation or aftercare services by DJJ. Juveniles assigned to these intensive supervision services must be those juveniles who require enhanced supervision, monitoring and contacts, or a higher level of treatment services. In conjunction with establishing these services, the department shall develop an array of graduated sanctions and impose these sanctions on offenders being provided these services for technical rule violations and minor infractions, whenever feasible to do so, in lieu of re-incarceration of the juvenile in a secure correctional facility. The array of graduated sanctions developed by the department may include, as a condition of their probation or parole, placement of a juvenile in staff or environmentally secure residential programs. Caseworkers selected to monitor, supervise, and serve juveniles assigned to intensive supervision services must have caseloads of no more than twenty juveniles.

The House returned **S.137** to the Senate with amendments. Under this bill, the **FAMILY COURT MAY ORDER THAT CUSTODY OF A MINOR CHILD BE AWARDED TO THE CHILD'S DE FACTO CUSTODIAN UNDER CERTAIN CIRCUMSTANCES**. 'De facto custodian' means, unless the context requires otherwise, a person who has been shown by clear and convincing evidence to have been the primary caregiver for and financial supporter of a child who: (1) has resided with the person for a period of six months or

more if the child is under three years of age, or (2) has resided with the person for a period of one year or more if the child is three years of age or older. Any period of time after a legal proceeding has been commenced by a parent seeking to regain custody of the child shall not be included in determining whether the child has resided with the person for the required minimum period. No proceeding to establish whether a person is a de facto custodian may be brought concerning a child in the custody of the Department of Social Services.

S.137 provides that a person is not a de facto custodian of a child until the court determines by clear and convincing evidence the person meets the definition of de facto custodian with respect to that child. If the court determines a person is a de facto custodian of a child, that person has standing to seek visitation or custody of that child. The family court may grant visitation or custody of a child to the de facto custodian if it finds by clear and convincing evidence that the child's natural parents are unfit or that other compelling circumstances exist. If the court has determined by clear and convincing evidence that a person is a de facto custodian, the court must join that person in the action as a party needed for just adjudication under the South Carolina Rules of Civil Procedure.

The House approved and sent to the Senate **H.4421**. This bill provides that **TEMPORARY PERMITS FOR THE SALE OF BEER AND WINE FOR OFF-PREMISES CONSUMPTION** authorized to be issued in a county or municipality pursuant to the referendum provided for at that time may continue to be issued or reissued without the requirement of a further referendum.

The House approved and sent to the Senate **H.4324**, a bill authorizing **SPECIAL HUNTING ISLAND STATE PARK LICENSE PLATES**. This bill authorizes the Department of Motor Vehicles (DMV) to issue Hunting Island State Park special license plates for a fee of fifty dollars every two years in addition to the regular motor vehicle license fee. Revenue from the fees would be first used by the DMV to defray the expenses of producing and administering the plate. The remaining revenue would be distributed to The Friends of Hunting Island State Park, Inc., for use on projects benefiting Hunting Island State Park. The bill also includes requirements for a minimum number of prepaid applications for the plate, and a marketing plan, before the plates may be produced and distributed.

The House amended, approved, and sent to the Senate **H.4195**, a bill regarding the creation and issuance of **"PARROT HEAD" SPECIAL LICENSE PLATES**. This bill authorizes the Department of Motor Vehicles to issue special license plates which are imprinted with an emblem, seal or other symbol associated with the South Carolina Parrot Head Club Council. The fee for the plate is thirty dollars every two years in addition to the regular motor vehicle license fee. Revenue derived from this fee would be first dedicated to defraying expenses associated with producing and distributing the plates. The remaining revenue would be used to support the Palmetto Chapter of the Alzheimer's Association and the Upstate South Carolina Chapter of the Alzheimer's Association. The bill also includes requirements for a minimum number of prepaid applications for the plate and a marketing plan before the plates may be produced and distributed.

The House approved and sent to the Senate **H.4624**. This bill **INCREASES FROM TWO HUNDRED TO FOUR HUNDRED THE MAXIMUM NUMBER OF**

MANUFACTURER LICENSE PLATES THAT THE DEPARTMENT OF MOTOR VEHICLES MAY ISSUE TO A MOTOR VEHICLE MANUFACTURER.

The House recommitted **H.4356** to the Judiciary Committee. The bill pertains to **POLL MANAGERS AND ASSISTANTS**. This bill provides that all managers of election for the various polling places in the State must be registered electors in this State. A sixteen and seventeen-year old shall serve under the supervision of a manager of the polling place who is eighteen years of age or older, and their specific duties must be prescribed by the county election commission. The bill further provides that no more than one-third of the workers in a polling place may be under the age of eighteen.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The Education and Public Works Committee reported favorable with amendment on **H.4195**, a bill regarding the creation and issuance of **“PARROT HEAD” SPECIAL LICENSE PLATES**. As reported by the committee, this bill authorizes the Department of Motor Vehicles to issue special license plates which are imprinted with an emblem, seal or other symbol associated with the South Carolina Parrot Head Club Council. The fee for the plate is thirty dollars every two years in addition to the regular motor vehicle license fee. Revenue derived from this fee would be first dedicated to defraying expenses associated with producing and distributing the plates. The remaining revenue would be used to support the Palmetto Chapter of the Alzheimer’s Association and the Upstate South Carolina Chapter of the Alzheimer’s Association. The bill also includes requirements for a minimum number of prepaid applications for the plate and a marketing plan before the plates may be produced and distributed.

The committee reported favorable on **H.4324**, a bill authorizing and providing for **SPECIAL HUNTING ISLAND STATE PARK LICENSE PLATES**. This bill authorizes the Department of Motor Vehicles (DMV) to issue Hunting Island State Park special license plates for a fee of fifty dollars every two years in addition to the regular motor vehicle license fee. Revenue from the fees would be first used by the DMV to defray the expenses of producing and administering the plate. The remaining revenue would be distributed to The Friends of Hunting Island State Park, Inc., for use on projects benefiting Hunting Island State Park.

The bill also includes requirements for a minimum number of prepaid applications for the plate, and a marketing plan, before the plates may be produced and distributed.

The committee reported favorable on **H.4624**. This bill **INCREASES FROM TWO HUNDRED TO FOUR HUNDRED THE MAXIMUM NUMBER OF MANUFACTURER LICENSE PLATES THAT THE DEPARTMENT OF MOTOR VEHICLES MAY ISSUE TO A MOTOR VEHICLE MANUFACTURER.**

The committee recommitted to subcommittee **H.4634**, a bill which provides that **FRATERNAL ORDER OF POLICE SPECIAL LICENSE TAGS MAY BE ISSUED ONLY TO MEMBERS OF THAT GROUP WHO PRESENT IDENTIFICATION THAT THEIR MEMBERSHIP IS ACTIVE AND IN GOOD STANDING**, and which also provides that persons issued this plate who cease to be a member of the organization must surrender their plate or they may be charged with a misdemeanor punishable by a fine of twenty-five dollars.

The committee also recommitted to subcommittee **H.4481**, a bill which allows the Department of Transportation to conduct at its discretion a **VEGETATION MANAGEMENT PROJECT ON THE MEDIANS, ROADSIDES, AND INTERCHANGES ALONG THE INTERSTATE HIGHWAY SYSTEM**, but requires that before implementation of the project, the Department must consult with the local governmental authority that has jurisdiction over the portion of the highway subject to the project.

JUDICIARY

The Judiciary Committee met on Tuesday, March 7, 2006.

H.4471, relating to the **JURISDICTION OF ACTIONS PERTAINING TO A COMMERCIAL LEASE RELATIONSHIP**, received a favorable with amendment report. In a commercial lease relationship, this bill provides that the magistrate has unlimited jurisdiction over a commercial ejectment action. An ejectment action arising out of a commercial lease which is filed in magistrate's court must not be transferred to the circuit court, regardless of the amount of the claim. The bill further provides that the magistrate shall sever and transfer all claims, compulsory counterclaims, or permissive counterclaims the commercial tenant files which exceed the jurisdictional limit; except the magistrate shall retain jurisdiction of the commercial ejectment action. If a commercial tenant appears and contests ejectment, **H.4471** further provides that the magistrate shall hear and determine the case as any other civil case. Upon motion of either party or upon his own motion, the magistrate may order that the case be heard at the next term of court following the tenant's appearance. The court may order the tenant to tender payment for all rent due and accruing as of and during the pendency of the action. The order may require the payments to be made directly to the commercial landlord or through the magistrate's office. If payments are to be made through the magistrate's office, a fee of three percent of the rental payment must be added to the amount paid through the office. Upon failure of the tenant to tender rent due within five days of the magistrate's order or as it accrues during pendency of the action, the tenant is considered to have waived his right to a jury trial and the action must be placed on the nonjury docket for consideration like any other civil case.

S.961, pertaining to the **ISSUANCE OF A CORPORATE CERTIFICATE TO A PROPOSED MUNICIPALITY**, received a favorable report. The bill provides that the area seeking to be incorporated file a proposal for providing either directly or indirectly a

substantially similar level of law enforcement services to the area's existing law enforcement coverage prior to seeking incorporation.

The full committee gave a favorable with amendment report to **H.4687**, relating to **COMMUNITY SERVICES PROVIDED BY THE DEPARTMENT OF JUVENILE JUSTICE (DJJ)**. This bill provides that intensive supervision services are among the community-based programs DJJ provides and that DJJ must provide intensive supervision in all regions of the State. Juveniles must be assigned to intensive probation or aftercare services by DJJ. Juveniles assigned to these intensive supervision services must be those juveniles who require enhanced supervision, monitoring and contacts, or a higher level of treatment services. In conjunction with establishing these services, the department shall develop an array of graduated sanctions and impose these sanctions on offenders being provided these services for technical rule violations and minor infractions, whenever feasible to do so, in lieu of re-incarceration of the juvenile in a secure correctional facility. The array of graduated sanctions developed by the department may include, as a condition of their probation or parole, placement of a juvenile in staff or environmentally secure residential programs. Caseworkers selected to monitor, supervise, and serve juveniles assigned to intensive supervision services must have caseloads of no more than twenty juveniles.

H.4411, pertaining to **ETHICS AND LOBBYING**, was recommitted to the Constitutional Laws Subcommittee.

The committee adjourned debate on the following bills:

- **S.370**, which relates to **COSTS AND ATTORNEYS FEES FOR ELECTION PROTESTS AND QUALIFIED CIVIL IMMUNITY FOR POLL WORKERS**
- **H.4509**, which relates to the **REVOCATION OF A LICENSE OF A PERSON WHO IS OUT OF COMPLIANCE WITH AN ORDER FOR CHILD SUPPORT**

H.4517, pertaining to **ADMINISTRATIVE LAW COURT HEARINGS AND PROCEEDINGS**, received a favorable with amendment report during the February 28, 2006 full committee meeting. The amendment was not available in time to be included in last week's *Legislative Update*.

Current law provides that contested cases arising under the Occupational Safety and Health Act are not heard by an administrative law judge; **H.4517** deletes this particular exception so that such cases may be heard by an administrative law judge. All matters pending before the South Carolina Occupational Safety and Health Review Board on the effective date of this legislation must be transferred to the Administrative Law Court for adjudication, and the South Carolina Occupational Safety and Health Review Board shall no longer provide administrative review.

Within thirty days after receipt of a citation, notice of penalty, or notice of abatement issued by the Division of Labor, **H.4517** provides that any aggrieved party may request a contested case hearing before the Administrative Law Court. The parties to the contested case are the Division of Labor and any aggrieved employer, employee, or employee representative who requests a contested case hearing. Hearings must be

conducted according to the rules of the Administrative Law Court. A party aggrieved by the decision of the Administrative Law Court may appeal the decision as provided in Section 1-23-380 and 1-23-61. An individual, partnership, corporation, or other business entity is not required to be represented by an attorney when appearing in a contested case before the Administrative Law Court, but may appear by an officer or an employee.

LABOR, COMMERCE AND INDUSTRY

The full committee did not meet this week.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full committee did not meet this week.

WAYS AND MEANS

The Ways and Means Committee completed work on its **2006-2007 BUDGET PLAN**. Highlights of that plan include:

State-wide Issues:

Adopted a 4.8% General Fund spending limit. This limit excludes the EFA, Medicaid and appropriations in the supplemental spending bill.

Provided a 3% pay raise to state employees at a cost of \$51.7 million and fully funded employee and retiree health insurance with \$30.5 million.

K-12 Education:

The Education Finance Act (EFA) was fully funded with \$69.5 million in new money to achieve a Base Student Cost (BSC) of \$2,367.

Initiated a 15 year replacement cycle for school buses by appropriating \$26 million for bus purchases and \$26.8 million for fuel.

Provided \$4 million in the First Steps budget to implement a pilot program for addressing the issue of Early Childhood Education cited in the recent court ruling. Another \$2 million was placed in the Department of Commerce's budget to provide tax incentives to private industry to develop infrastructure for providing these services in affected school districts.

Fully funded the growth in the National Board Certification program with \$6.1 million.

Higher Education:

\$10 million was appropriated to provide funding parity at higher education institutions with Coastal Carolina receiving \$3.7 million.

The two research Universities each received \$6 million to keep S.C. on the path of developing an educated workforce capable of meeting the demands of industry in the 21st century.

The Medical University received \$4 million for the College of Dental Medicine and another \$500,000 to fund the Hollings Cancer Center.

Health:

Medicaid growth was fully funded with \$109 million in new money.

The appropriation for Trauma Centers was increased by \$2 million.
Breast Cancer Screening and Treatment was funded with a \$1 million appropriation.

The Colleton Veterans nursing home received the \$6 million required to run it next year.

\$9.2 million was provided to reduce the waiting list at the Department of Disabilities and Special Needs to provide care for the disabled adult children of aging parents who are no longer able to care for their children.

Economic Development:

The Department of Parks Recreation and Tourism received \$4.1 million to promote South Carolina nationally and internationally.

The Department of Commerce received over \$17 million in new funding for a variety of programs intended to bring new industries into the State and help foster our competitiveness in the global marketplace.

Law Enforcement and Criminal Justice:

The Department of Corrections; DJJ; and Probation, Pardon, and Parole received a combined total of \$22 million. This includes funds to operate the Turbeville institution and employ modern technology for the efficient monitoring and supervision of individuals on probation or parole. \$5.8 million of these funds will be used to provide a pay incentive for officers who work at institutions which house the most violent offenders.

A new class of Highway patrol troopers was funded at a cost of \$8.9 million. SLED appropriated \$4 million for additional agents and to provide support to the local law enforcement community.

Law enforcement officers were also funded in the Department of Natural Resources budget at a cost of \$1.7 million.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

EDUCATION AND PUBLIC WORKS

H.4774 FINANCIAL LITERACY INSTRUCTION Rep. Govan

Beginning with incoming freshman students in the fall semester of 2008, this bill requires that all degree-seeking students in public institutions of higher learning shall pass a class in financial literacy instruction before obtaining a degree. The bill requires the Commission on Higher Education to work with the public institutions to develop guidelines for the course content and requirements.

H.4788 FEE FOR AUTOMOBILE MANUFACTURER STANDARD LICENSE PLATE Rep. Vaughn

This resolution provides that for years 2006 and 2007, the annual fee is seven hundred sixty-one dollars for the automobile manufacturer standard license plate for vehicles used in a benefit program for the manufacturer's employees or for testing, distribution, evaluation, and promotion. The resolution provides that twenty dollars of this special fee is credited to the State general fund and the remaining seven hundred forty-one dollars must be remitted to local government. The bill also extends retroactively to 2005 these fees as established in a joint resolution of 2003.

JUDICIARY

S.134 DEATH PENALTY Sen. Gregory

This bill adds arson in the first degree to the list of crimes included in the statutory aggravating circumstances for purposes of the death penalty.

S.394 DEALERS IN PRECIOUS METALS Sen. Mescher

This bill relates to dealers in precious metals. Among other things, this bill provides that a dealer shall not make a purchase from a seller if there is evidence of ownership by a third party without first taking reasonable steps to ascertain the item's true ownership. A dealer must return an item so purchased, on demand and without a fee, to the third party owner

S.1084 "UNBORN VICTIMS OF VIOLENCE ACT OF 2006" Sen. McConnell

This bill provides that a person who commits a violent crime that causes the death of, or injury to, an unborn child is guilty of a separate offense and that the person must be punished as if the death or injury occurred to the unborn child's mother. The term 'unborn child' means a child in utero, and the term 'child in utero' or 'child who is in utero' means a member of the species homo sapiens, at any state of development, who is carried in the womb. Prosecution of an offense under this section does not require proof that: (1) the person committing the violent offense had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or (2) the defendant intended to cause the death of, or bodily injury to, the unborn child. The bill further provides that the person must be punished for murder or attempted murder if the person

intentionally killed or attempted to kill the unborn child. The bill prohibits imposing the death penalty for an offense prosecuted pursuant to this section. The bill also prohibits the prosecution of a person for conduct related to an abortion if proper consent was obtained and to medical treatment of a pregnant woman and of a woman with respect to her unborn child.

**S.1145 STATE'S RESPONSIBILITIES UNDER THE FEDERAL UNIFORMED
AND OVERSEAS CITIZENS ABSENTEE VOTING ACT (UOCAVA)**

Sen. Martin

This bill authorizes the executive director of the State Election Commission to also serve as the chief state election official responsible for implementing and enforcing the state's responsibilities under the federal UOCAVA.

For the qualified electors of this State who are eligible to vote as provided by the federal UOCAVA, an absentee ballot with an absentee instant runoff ballot for each potential second primary must be mailed to the elector at least 45 days prior to the primary election. The absentee instant runoff ballots for second primaries must be prepared by the authority charged with conducting the election. The absentee instant runoff ballot for a second primary shall permit the elector to vote his order of preference for each candidate for each office by indicating a rank next to the candidate's name on the ballot. However, the elector shall not be required to indicate his preference for more than one candidate on the ballot if he so chooses. The special absentee ballot shall be designated as an 'absentee instant runoff ballot' and be clearly distinguishable from the regular absentee ballot. Instructions explaining the absentee instant runoff voting process must be provided with the ballot to the qualified elector. The State Election Commission shall promulgate regulations necessary for the implementation of this section.

The bill further provides that to ensure that all South Carolina residents eligible to vote as provided by the UOCAVA have the opportunity to receive and cast any ballot they would have been eligible to cast if they resided in and had remained in South Carolina, the State Election Commission must, in cooperation with United States government agencies, take all steps and action as may be necessary, including, but not limited to, electronic transmissions of Standard Form 76 issued by the federal government as an application for voter registration and an application for absentee ballots and electronic transmissions of absentee ballots to or from any elector.

**H.4752 ESTABLISHING THE CRIMES OF VEHICULAR HOMICIDE AND
VEHICULAR GREAT BODILY INJURY Rep. W.D. Smith**

This bill provides that a person is guilty of vehicular homicide when his unintentional act or negligence proximately causes the death of a person while operating a motor vehicle: (1) without a valid driver's license; (2) with a suspended driver's license; (3) that is uninsured; or (4) when he has been determined to be a habitual traffic offender. Violations are considered a felony, and the bill outlines penalties.

The bill further provides that a person is guilty of vehicular great bodily injury when his unintentional act or negligence proximately causes great bodily injury to another person while operating a motor vehicle: (1) without a valid driver's license; (2) with a suspended driver's license; (3) that is uninsured; or (4) when he has been determined to be a

habitual traffic offender. Violations are considered a felony, and the bill outlines penalties.

H.4768 *MERCHANDISE COUPONS OFFERED BY MANUFACTURERS, SUPPLIERS, OR IMPORTERS ON THE PURCHASE OF BEER, WINE, AND ALCOHOLIC LIQUOR* Rep. Harrison

This bill authorizes consumers to receive merchandise coupons offered by manufacturers, suppliers, or importers on the purchase of beer, wine, and alcoholic liquor. The bill outlines conditions and limitations as to the manner in which the coupons may be offered to consumers; the bill also provides penalties for violation.

H.4771 *PROFESSIONAL BONDSMAN'S MAINTENANCE OF SECURITY DEPOSITS WITH THE CLERK OF COURT* Rep. Altman

This bill revises the amount a professional bondsman must maintain as a deposit with a clerk of court; the bill requires that the minimum amount of this collateral must be \$25,000 dollars in cash.

H.4773 *HEALTH CARE POWER OF ATTORNEY* Rep. Sinclair

This bill revises the South Carolina statutory form for the Health Care Power of Attorney. Revisions include:

- Providing further for a successor agent,
- Including a HIPAA (Health Information Portability and Accountability Act of 1996) authorization,
- Clarifying designation choices in connection with tube feeding, and
- Providing for an optional acknowledgement by a notary public.

H.4779 *DEFINITION OF CONTIGUOUS PROPERTY FOR PURPOSES OF ANNEXATION OF PROPERTY BY A MUNICIPALITY* Rep. Rivers

This bill deletes certain geographical factors that can be used to establish contiguity to property annexed by a municipality. The bill provides that 'contiguous' means property which is adjacent to a municipality and shares a continuous border. Contiguity is not established by a road, waterway, right-of-way, easement, railroad track, marshland, or utility line which connects one property to another.

H.4780 *VOTER REGISTRATION THROUGH APPLICATION FOR HUNTING OR FISHING LICENSE OR PERMIT* Rep. Delleney

This bill outlines procedures whereby a person may register to vote through making an application for a state hunting or fishing license or permit.

H.4790 *"UNBORN VICTIMS OF VIOLENCE ACT OF 2006"* Rep. Haskins

This bill provides that a person who commits a violent crime that causes the death of, or injury to, an unborn child is guilty of a separate offense and that the person must be punished as if the death or injury occurred to the unborn child's mother. The term 'unborn child' means a child in utero, and the term 'child in utero' or 'child who is in utero' means a member of the species homo sapiens, at any state of development, who is carried in the womb. Prosecution of an offense under this section does not require proof

that: (1) the person committing the violent offense had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or (2) the defendant intended to cause the death of, or bodily injury to, the unborn child. The bill further provides that the person must be punished for murder or attempted murder if the person intentionally killed or attempted to kill the unborn child. The bill prohibits imposing the death penalty for an offense prosecuted pursuant to this section. The bill also prohibits the prosecution of a person for conduct related to an abortion if proper consent was obtained and to medical treatment of a pregnant woman and of a woman with respect to her unborn child.

LABOR, COMMERCE AND INDUSTRY

H.4781 “THE AUTOMATIC PAYMENT PROTECTION ACT” Rep. Mahaffey

This bill enacts “The Automatic Payment Protection Act”, requiring conspicuous disclosure by a bank to its customer and by a vendor to its buyer of the procedure for terminating an automatic payment authorization agreement and stopping automatic payments from being charged against the customer’s account or buyer’s credit card. A bank or vendor that enters into an automatic payment authorization agreement with a customer or a buyer in violation of this legislation is liable to the customer or buyer for damages in an amount three times the pecuniary loss suffered by reason of the failure to terminate the agreement in a timely manner, as well as court costs and reasonable attorney’s fees.

H.4794 NEW NUCLEAR ELECTRIC GENERATION UNITS Rep. Cato

This bill revises provisions for joint ownership of the VC Summer nuclear electric generating station in Fairfield County, so as to authorize new nuclear generation units at the site and allow these units to be jointly owned by the South Carolina Public Service Authority with privately owned electric utilities.

WAYS AND MEANS

H.4769 “SPECIAL NEEDS SCHOLARSHIP PROGRAM OF 2006” Rep. Rice

This bill establishes and provides for a scholarship program to provide special needs students with the option to attend a public or nonpublic school of their choice. Eligible students would be elementary or secondary students attending South Carolina public schools with an individual education plan. Parents of these special needs students who are dissatisfied with the student’s progress would qualify for a scholarship from the State for the child to enroll in and attend a nonpublic school if: the student has had an individual education plan written in accordance with Department of Education (Department) regulations; the student has been accepted at a participating school (a school outside of the student’s resident school district); and the parent has requested a scholarship from the State before the Department’s deadline.

The bill establishes procedures for the Department to follow upon receipt of a parent’s request for a scholarship, and provides for how the amount of the scholarship must be

determined. The bill provides that the parent and the participating school shall determine the best services and educational plan for the student.

The Special Needs Scholarship would remain in force until the student returns to a public school, graduates from high school, or reaches age twenty-one, whichever comes first. The bill includes requirements for resident school districts to notify parents of special needs students of the scholarship program, and requires the resident district to provide transportation for the student to and from the participating school under the same conditions as the resident district is required to provide transportation for other resident students.

The bill requires the Department to adopt regulations and procedures to implement the provisions of the bill. The bill includes requirements for participating schools which are intended to ensure the safety and fair treatment for students, to ensure that public funds are spent appropriately, and to ensure that the schools provide academic accountability to parents. Participating schools are autonomous and are not an agent of the state or federal government.

The bill requires the Education Oversight Committee to conduct a study of the program and requires that all of the provisions of the bill must be implemented beginning with the 2006-2007 school year.

S.1044 TAX BILLS/BANKRUPTCY Sen. O'Dell

Currently, a county treasurer may not issue a tax receipt to a taxpayer unless the taxes and all other charges included on the tax bill have been paid in full. This bill allows a county treasurer to accept a lesser amount than the original tax bill together with any applicable penalties, costs, and charges whenever a bankruptcy proceeding authorizes a lesser amount to be paid. The bill allows the auditor, as authorized by county council, to prepare a tax bill to authorize negotiated taxes as a result of a bankruptcy.

S.1065 ACCESS TO A MARINA AND ITS BUSINESS RECORDS Sen.

Grooms

This bill provides that for purposes of the current requirement that a marina must provide immediate access to its business records for the purpose of making a property tax assessment, "business records" means only a boat name and model, the name of the boat owner, and the boat owner's billing address.

S.1108 CUTTING TIMBER/NONRECOGNITION OF GAIN Sen. Campsen

This bill provides that for purposes of the nonrecognition of gain under Section 1031 of the Internal Revenue Code and comparable provisions of state law, the conveyance by timber deed of the right to cut standing timber for more than thirty years is considered a conveyance of a real property interest, and under South Carolina law, is a like-kind exchange with other similar conveyances of a real property interest or with conveyances of similar investment real property owned in fee simple.

H.4777 PROPERTY TAX EXEMPTIONS Rep. Clark

This bill provides that property tax exemptions on passenger vehicles and dwelling homes provided to veterans must be extended to a veteran's surviving spouse who establishes residency in this State subsequent to the death of the veteran, if the veteran, but for residency requirements, could have qualified for the exemption.

The bill reduces from two to one, the number of vehicles for which a prisoner of war may receive a property tax exemption. The bill deletes references to specific wars for which prisoners of war may obtain this exemption and provides instead that the county office of Veterans Affairs certify that the person was a prisoner of war.

H.4778 PORTS AUTHORITY REQUIREMENTS Rep. Clemmons

This Joint Resolution requires the State Ports Authority (the Authority), within 180 days of the issuance of the judicial affirmation of its exclusive right to develop shipping facilities on the Savannah River in Jasper County, to begin condemnation proceedings in connection with certain land in Jasper County for the development of the shipping facilities, and to issue a request for proposals from private companies to assist in developing these facilities at the proposed Jasper County Port.

The resolution further requires that within ninety days of a judicial determination of its exclusive right to develop shipping facilities on the Savannah River in Jasper County, the Authority shall report to the General Assembly on its progress on the condemnation schedule and its plans for the development of the shipping facilities.

The resolution requires the Authority to commence the sale of operations and assets of the Port of Port Royal and the Authority-owned land on Daniel Island as soon as practicable, and requires the Authority to issue requests for bids or proposals for the sale by June 30, 2006. The bill requires the Authority to report progress of this sale to the General Assembly by May 15, 2006.

The resolution also includes procedures and descriptions regarding a “most financially advantageous” sale of the operations and assets of the Port of Port Royal and the Authority-owned land on Daniel Island.

S.985 USE OF REVENUE FROM ACCOMMODATIONS TAX Sen. Leatherman

This bill provides that in a county in which less than \$900,000 in accommodations taxes is collected annually, up to twenty percent of the revenue in the preceding fiscal year of the local accommodations tax may also be used for the operation and maintenance of tourism-related buildings including, but not limited to, civic centers,

coliseums, and aquariums; tourism-related cultural, recreational, or historic facilities; beach access, renourishment, or other tourism-related lands and water access; highways, roads, streets, and bridges providing access to tourist destinations; advertisements and promotions related to tourism development; or water and sewer infrastructure to serve tourism-related demand. The bill provides that this includes police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to these facilities.

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